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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,546

09/11/2006

Knud Raun

PATRADE

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08/07/2008

EXAMINER

KELLEHER, WILLIAM J

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,546	<b>Applicant(s)</b> RAUN, KNUD	
	<b>Examiner</b> WILLIAM KELLEHER	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 9 recite structural limitations directed towards a driving unit and means for connecting a driving unit to the frame claimed in claims 1-7. However, no driving unit is positively recited in Claims 1-7. Claim 7 recites that the frame has means for mounting a driving unit. The term "means for mounting" in Claim 7 is interpreted as a mounting structure. However, a driving unit has not been positively recited. The driving unit is only referred to in intended use language (such as "...for engaging a transverse bar provided on a driving unit...").

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reyer (U.S. Patent 4,003,479) in view of Williamson (U.S. Patent 6,006,376).

Regarding Claims 1-3, Reyer discloses an apparatus capable of hoisting and transporting a disabled person, in an upright sitting position, where said apparatus includes a frame supported by swiveling wheels, the frame including a substantially horizontally extending top section provided with substantially vertically extending end sections extending downwards at opposite ends of the top section, respectively, where both the top section and both end sections are constructed as frames having spaced apart but parallel frame members where the apparatus is arranged with a hoisting mechanism for supporting and hoisting the disabled person in a sling seat in the space under the top section and between the end sections of the frame, and that most of the space from a base and upwards under the top section and between the end sections is accessible from at least one side of the frame, and that the top section of the frame is extendible in a horizontal direction in such a way that the distance between the end sections can be adjusted. Reyer discloses telescoping sections. Reyer discloses only one lifting arm (boom 6) that is pivotably mounted (at 41) at the top section of the frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have more than one arm on Reyer, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Reyer does not disclose each rigid lifting arm having a linear actuator between the arm and an adjacent end section of the frame and does not disclose an actuator for extending the device. Williamson

discloses “According to yet another preferred embodiment of the invention, the frame assembly conversion means includes first and second linear actuators attached to the frame assembly for moving the frame assembly between the open and closed conditions.” One of ordinary skill in the art would have recognized that a linear actuator removes the need for a manual conversion. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add a linear actuator to Reyer to make the length adjustment easier.

Regarding Claim 11, Reyer as modified discloses the claimed invention except for the claimed size. It would have been an obvious matter of design choice to change the size of Reyer, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

3. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reyer in view of Williamson as applied to claim 1 above, and further in view of Dunn (U.S. Patent 5,845,348).

Reyer as modified does not disclose rechargeable batteries. Reyer as modified does however disclose actuators as described above. Dunn discloses using a rechargeable battery at the end of a hoist. One of ordinary skill in the art would have recognized that rechargeable batteries remove the need for wires that could be tripped over and cause a safety hazard. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use rechargeable batteries to power Reyer as modified in order to remove the need for a wired connection to a wall.

Reyer does not disclose both actuators being operated by one motor. However, one of ordinary skill in the art would have recognized that one motor would consume less power than two motors.

4. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reyer in view of Williamson as applied to claim 1 above, and further in view of Du-Bois (U.S. Patent 5,509,159). Reyer as modified does not disclose a pair of hooks and attachment means below the hooks. Du-Bois, however, discloses a patient transferring device that uses a pair of hooks (17 and 18 of Du-Bois) at one end, and other attachment means (19 and 22 of Du-Bois) at the other end for connecting transverse bars of an auxiliary member. One of ordinary skill in the art would have recognized that attachment means such as Du-Bois' could be added to Reyer as modified for attaching auxiliary members. This modification would not change the predictable established functions of either the patient hoist of Reyer as modified or the attachment means of Du-Bois. Furthermore, this combination is capable of receiving transverse bars of a driving unit. The Examiner also notes 19 and 20 of Du-Bois are spring biased due to an energized spring. The male end is considered the transverse bar of an auxiliary member and the female portion is considered the portion that receives the transverse member.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reyer in view of Williamson as applied to claim 1 above, and further in view of Cheeseboro (U.S. Patent 6,637,610). Reyer as modified does not disclose a bend in each end section. Cheeseboro, however, discloses using inclined legs. One of ordinary skill in the art

would have recognized that Reyer as modified could incorporate inclined legs without changing the predictable established function of base legs.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-4, 6-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM KELLEHER whose telephone number is (571)272-7753. The examiner can normally be reached on Monday - Friday 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571)-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/  
Supervisory Patent Examiner, Art Unit 3673

/W. K./  
Examiner, Art Unit 3673